

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: MANDATE RELIEF SUB-COMMITTEE

DATE: JUNE 6, 2012

COMMITTEE MEMBERS PRESENT:

SUPERVISORS WESTCOTT
MONROE
TAYLOR
WOOD
MASON
CONOVER

OTHERS PRESENT:

DANIEL G. STEC, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ADMINISTRATOR
JOAN SADY, CLERK OF THE BOARD
KEVIN GERAGHTY, BUDGET OFFICER
SUPERVISORS KENNY
MCDEVITT
THOMAS

COMMITTEE MEMBER ABSENT:

SUPERVISOR GIRARD

JOHN STROUGH, COUNCILMAN, 3RD WARD, TOWN OF QUEENSBURY
JON ALEXANDER, *THE POST STAR*
CHARLENE DiRESTA, SR. LEGISLATIVE OFFICE SPECIALIST

Mr. Westcott called the meeting of the Mandate Relief Sub-Committee to order at 11:26 a.m.

Copies of the agenda packet were distributed to the Committee members; *a copy of the agenda packet is on file with the minutes.*

Mr. Westcott said this was the first meeting of the Mandate Relief Sub-Committee and therefore there were no minutes to approve. He commented that Paul Dusek, County Administrator, would review the work completed by the Mandate Relief Task Force, thus far.

Mr. Dusek advised that the Mandate Relief Task Force had met informally a month prior to discuss the three mandates which the State would allow the County to submit each year for review. He explained that NYSAC (New York State Association of Counties) had been pursuing mandate relief from the State and had identified and submitted nine mandates (NYSAC 9) to the State for review, as follows:

1. Medicaid;
2. Public Assistance/Safety Net;
3. Child Welfare;
4. Preschool Education;
5. Early Intervention;
6. Indigent Defense;
7. Probation;
8. Youth Detention; and
9. Pensions.

Mr. Dusek stated that the NYSAC 9 mandates had been a fundamental driving point for a lot of Counties who wanted these costly mandates to be addressed. He advised the Governor had established a Mandate Relief Council and was allowing Counties to submit up to three mandates per calendar year for review. He reported that he had called Senator Little's Office and had spoken to her Assistant who had advised that the NYSAC 9 mandates were already considered as being submitted and were in the process of being reviewed by the State. He added that Senator Little's Assistant had advised the County could support the NYSAC 9 mandates by resolution but they should not be part of the three mandates submitted by the County for review. He continued by saying Senator Little's Assistant had recommended meeting with the Department Heads to ascertain which mandates were cumbersome or costly to their Departments. He noted there was a process

by which the Mandate Relief Council would review the submitted mandates and he commented some mandates could be amended by agency and some would require the assistance of the State Legislature. Mr. Dusek distributed a handout to the Committee members pertaining to the Mandate Relief Council Review Process; *a copy of the handout is on file with the minutes*. He stated the first page of the handout highlighted the review process and the second page listed all of the mandates which had already been submitted for review. He reiterated the County would be able to submit three mandates per calendar year for review and he suggested the chosen mandates be ones which would not require legislation as the process was lengthy and the legislative sessions were coming to a close for the year.

Mr. Dusek distributed a handout entitled, Mandate Relief Council - Review of Mandates Requested by County of Warren, to the Committee members; *a copy of the handout is on file with the minutes*. He said the second page of the handout listed the possible mandates to be included in the three mandates submitted by the County. Pertaining to funding cuts to the Public Defender/Legal Aid Programs, Mr. Dusek distributed a handout entitled, Indigent Legal Services Fund, to the Committee members; *a copy of the handout is on file with the minutes*. He explained that under the Constitution and the laws of New York State (NYS), the County was required to provide legal services to the indigent and others who could not afford to pay for their own legal services. He said in Warren County the total cost of providing Indigent Legal Services was approximately \$1.1 million per year. He explained that Warren County provided these services by the following means:

- ▶ the Public Defender's Office comprised of five attorneys whose salaries were paid by Warren County and the budget for the Public Defender's Office was approximately \$600,000; and
- ▶ the Legal Aid Division which essentially hired attorneys to represent the indigents at a rate of \$75 per hour and the cost of the Legal Aid Division was approximately \$500,000 per year.

Mr. Dusek further explained that the reason there were two Offices to provide the Indigent Legal Services was because there were instances where the Public Defenders Office would be conflicted and could not represent a particular defendant. He stated that NYS had provided funds towards these expenses for the last few years, as follows:

- ▶ in 2010 NYS provided \$213,623;
- ▶ in 2011 NYS provided \$190,146 which was 90% of the amount received in 2010;
- ▶ in 2012 NYS provided \$160,217 which was 75% of the amount received in 2010;
- ▶ in 2013 NYS would provide \$106,812 which was 50% of the amount received in 2010; and
- ▶ in 2014 NYS would provide \$53,406 which was 25% of the amount received in 2010.

Mr. Dusek stated that NYS had established the New York State Office of Indigent Legal Services and had allocated \$213,623 to Warren County in 2010 with an established percentage of decrease each year. He said there was confusion over the fact that although NYS was reducing the amount of funding each year, there was a means to receive additional funding which required the development of a new program. He apprised that Warren County provided more than sufficient Indigent Defense Services and there was little that could be done to enhance the current program. He announced that John Wappett, Public Defender, had developed a plan to utilize some of the funding received from NYS to upgrade the computers for the Department. He noted the funding cuts to the Public Defender/Legal Aid Programs would be a good selection as one of the County's three chosen mandates, as it was possible to clearly detail the cost to the County caused by this mandate.

Mr. Dusek apprised that Robert Iusi, Probation Director, had suggested that he could save the County approximately \$30,000 per year if Pre-Sentencing Investigation Report requirements were limited. He said he had asked the opinions of Kate Hogan, District Attorney, and Mr. Wappett and Ms. Hogan had indicated she was in favor of limiting the requirements; however, he continued, Mr.

Wappett opined the reports contained important information that would otherwise not be available for most cases and the amount of savings would not be worth the loss of information.

Mr. Dusek stated that Mr. Iusi also asked for review of the new requirement that information provided by the State be included in the Community Correction Plan and that each municipality evaluate possible changes in the Probation operations which might be made after review by the Criminal Justice Advisory Board. He said Mr. Iusi had reported that the agency had started to respond with minimal changes to this mandate. Mr. Dusek apprised this mandate was not costly but did increase the workload of the Probation Department.

Mr. Dusek mentioned there had been discussion pertaining to the Fire Prevention & Building Codes being too onerous but he had not been asked to submit a request to change the current codes.

Mr. Dusek apprised that he had been requested to meet with Suzanne Wheeler, Acting Commissioner of the Department of Social Services (DSS), with regard to the Medicaid and Food Stamp Administration Programs. Pertaining to the Food Stamp Administration, he advised the County's share of the costs was approximately \$600,000. Concerning the Medicaid Program, he continued, he had been asked to determine if it was possible to amend the thresholds for eligibility but the response had been that the County could not change the threshold levels of the State expansion programs for Medicaid Assistance, Child Health Plus and Family Health Plus eligibility. He explained the State and Federal thresholds began at the same base level but NYS had added various programs at different thresholds for families and children. Mr. Dusek suggested requesting Ms. Wheeler attend a future Committee meeting in order to explain DSS mandates further as some were complicated.

Mr. Dusek stated that the Mandate Relief Task Force had also reviewed Prevailing Wage Rates and he had contacted Mike Borgos, former attorney for Queensbury Central Volunteer Fire Company (QCVFC), pertaining to their previous issue with Prevailing Wage Rates. He noted Prevailing Wage Rates increased the total cost of constructing a building. He apprised all municipalities were subject to Prevailing Wage Rates which meant the contractors were required to pay their employees at union rates. He added the New York State Department of Labor had imposed Prevailing Wage Rate requirements on corporate entities, such as Volunteer Fire Companies, who had contracted services with municipalities. He explained the QCVFC was a separate corporate entity from the Town of Queensbury and there had been some question as to the requirement for Prevailing Wage Rates. Therefore, when the QCVFC commenced their building project, he continued, they had released RFP's (Requests for Proposals) with and without Prevailing Wage Rates. He said the difference in the results from the two RFP's varied by approximately \$150,000 due to the Prevailing Wage Rates for which it was determined QCVFC was required to pay. He advised Prevailing Wage Rates might be one of the three mandates the County would want to submit for review as the savings could be significant.

Mr. Dusek informed that Sheriff-Jail mandates and Public Health - Preschool mandates had also been reviewed although not much had been completed. He added they had also reviewed the NYSAC 9 mandates. He reported the Mandate Relief Task Force had reviewed the recent action taken by the Governor and the State Legislature pertaining to Pension reform, Early Intervention reform, Medicaid reform and additional funding for Community Colleges. Mr. Dusek apprised the Task Force had also discussed other mandates, such as PAAA (Public Authorities Accountability Act), the Triborough Amendment, Mandatory Interest Arbitration, land use regulations and fire and emergency squad regulations. He said the PAAA rules should have fewer, less complex rules to follow for smaller

organizations like the Warren County Local Development Corporation. He explained when law enforcement agencies and municipalities were unable to reach an agreement resultant of union negotiations, they were forced into Mandatory Interest Arbitration. This process meant that three arbitrators, he continued, would then decide the salaries of the law enforcement officers and would consider comparables, the amount of salary the municipality could afford to pay and other criteria before making their decision.

Pertaining to the Triborough Amendment, Mr. Dusek expounded this was an amendment from the 1980's resultant of a court decision made in the 1970's that required prior union contract terms be followed until the next union contract agreement was reached. He noted that although the Triborough Amendment was not included in the NYSAC 9 mandates, it was submitted by several school districts as part of their three mandates. He added that since the Triborough Amendment seemed to have momentum from these other municipalities, it might be one of the three mandates the County would want to consider submitting for review. Mr. Conover commented that the Triborough Amendment was particularly costly in terms of Health Insurance benefits as the rate of increasing health insurance costs had not been considered at the time the Amendment was established.

Mr. Dusek said the purpose of the Mandate Relief Task Force meeting last month had been to assist in determining which three mandates would be submitted by the County. He commented the information presented today should help in that goal and he noted the County had the remainder of this calendar year to submit the three mandates. He expressed that it was unlikely the County would receive legislative relief this year due to the time line. He stated it was now the responsibility of the Mandate Relief Sub-Committee to select the three mandates to be submitted for review. He added it might be necessary to have additional meetings with further information prior to making the selections.

Mr. Conover inquired if there were other Counties who were having the same problem with the Public Defender/Legal Aid Program funding cuts and Mr. Dusek replied he believed there were. Mr. Conover suggested that the County submit the first mandate as soon as a decision was made and not wait until all three mandates were selected.

Mr. Westcott stated the purpose of today's meeting was to provide an outline and familiarize the Committee members with the various mandates. He informed the Committee that the Mandate Relief Task Force members included him, Chairman Stec and Messrs. Conover, Dusek and Monroe. He distributed a summary he had drafted of the meeting notes from the Mandate Relief Task Force meeting to the Committee members; *a copy of same is on file with the minutes*. He requested the Committee members review all of the materials distributed today, in order to discuss and possibly identify the County's three mandates to be submitted for review at the next Committee meeting.

A brief discussion ensued.

Mr. Taylor asked if the mandates selected by the County for 2012 would be carried over to 2013 if they were not acted upon in 2012 and Mr. Westcott replied the County would most likely be required to re-submit the mandates for review in 2013. Mr. Westcott said the State Legislative Session was coming to a close and any changes to the mandates would impact the 2013 State Budget. Mr. Taylor asked if there was any point in submitting any mandates for 2012 and Mr. Dusek responded there was a point if the mandates selected were within the Governor's or Agency's control to make the necessary changes.

Mr. Westcott distributed copies of a Mayday for Mandate Relief Resolution adopted by the Saratoga County Board of Supervisors; *a copy of the resolution is on file with the minutes*. He said one of the requests in the resolution was for the Governor to appoint County representatives to the Mandate Relief Council which was currently made up of State Legislators and the Governor's Administrative Team. Mr. Westcott suggested Warren County adopt a similar resolution pertaining to members of the Mandate Relief Council. Mr. Monroe stated it would be important to have County representatives on the Mandate Relief Council when the individual mandates were debated.

Motion was made by Mr. Monroe, seconded by Mr. Conover and carried unanimously to request the Governor to expand the Mandate Relief Council by appointing local government members (County Supervisors) in addition to the State Legislators. *The necessary resolution was authorized for the June 15, 2012 Board meeting.*

Mr. Westcott distributed two charts to the Committee members: the first chart entitled, Conservative Revenue Growth-Limited Expenditure Reductions 2009-2020, was prepared by NYSAC; and the second chart entitled, Mandate Impact on Community Services Warren County, was prepared by the County Treasurer's Office; *copies of both charts are on file with the minutes*. Pertaining to the NYSAC chart, Mr. Westcott said it reflected the increasing expenses versus revenues in New York State and predicted an approximate \$6 billion deficit by 2020 and a commutative deficit of \$32 billion from 2012 to 2020. He requested members come to the next meeting prepared to present ideas and suggestions on how the Mandate Relief Sub-Committee should operate and the next steps that should be taken to address this increasing burden. Mr. Monroe thanked Mr. Westcott and Mr. Dusek for the work they had completed compiling the information that was presented today. Mr. Conover noted it was important to continue communications with the Department Heads in order to ascertain how unfunded mandates directly affect each Department's operations. Mr. Westcott reminded the Committee of Mr. Dusek's suggestion to request Ms. Wheeler attend the next Committee meeting to explain in detail the Medicaid Program. He added there were Federal mandates pertaining to the Program and electives which each State could choose to participate in and New York State participated in all of the electives at a rate of 100%. He suggested that other Department Heads should be invited to Committee meetings throughout the year to allow them an opportunity to explain mandated programs within their Department.

As there was no further business to come before the Mandate Relief Sub-Committee, on motion made by Mr. Monroe and seconded by Mr. Conover, Mr. Westcott adjourned the meeting at 12:08 p.m.

Respectfully submitted,
Charlene DiResta, Sr. Legislative Office Specialist